

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
ULYANA KUZNETSOV, XIU JUAN ZHANG, :
XIN DAI, SIU LING CHAN, FENG LI SUN, SHU :
XIAN LIU, JIAN GUO ZHANG, SHANG LIN LI, :
SHU FEN CHOU, and YIN MAN SHUM, on :
behalf of themselves and others similarly situated :
:
Plaintiffs, : **ORDER**
10-CV-3473 (JMA)
:
-against-
:
XPRESSPA – JDEE JV LLC, XPRESSPA AT :
TERM. 4 JFK, LLC, XPRESSPA ATLANTA :
TERMINAL A, LLC, XPRESSPA ATLANTA :
TERMINAL C, LLC, XPRESSPA BOSTON :
LOGAN, LLC, XPRESSPA CHARLOTTE :
AIRPORT LLC, XPRESSPA CHICAGO O'HARE, :
LLC, XPRESSPA DENVER AIRPORT, LLC, :
XPRESSPA DETROIT AIRPORT, LLC, :
XPRESSPA DFW AIRPORT, LLC, XPRESSPA :
DFW KIOSK LLC, XPRESSPA DFW :
TERMINAL D, LLC, XPRESSPA FRANCHISING :
LLC, XPRESSPA HOUSTON TERMINAL D, :
LLC, XPRESSPA INTERNATIONAL :
HOLDINGS, LLC, XPRESSPA JFK TERMINAL :
1, LLC, XPRESSPA JFK TERMINAL 5, LLC, :
XPRESSPA JFK TERMINAL 7, LLC, XPRESSPA :
LAGUARDIA AIRPORT, LLC, XPRESSPA LAS :
VEGAS TERMINAL D, LLC, XPRESSPA LAX :
TERMINAL5, LLC XPRESSPA MEXICO, LLC, :
XPRESSPA MSP AIRPORT, LLC, XPRESSPA :
NEWARK AIRPORT, LLC, XPRESSPA ONLINE :
SHOPPING, LLC, XPRESSPA ORLANDO :
AIRPORT, LLC, XPRESSPA ORLANDO :
AIRSIDE 4, LLC, XPRESSPA PHILADELPHIA :
AIRPORT, LLC, XPRESSPA PHILADELPHIA :
TERMINAL A WEST, LLC, XPRESSPA :
PITTSBURGH A, LLC, XPRESSPA RALEIGH- :
DURHAM INTL., LLC, XPRESSPA S.F. :
INTERNATIONAL, LLC, XPRESSPA ST. LOUIS :
AIRPORT, LLC, XPRESSPA WASHINGTON :
REAGAN, LLC, SYDELLE ELKIND, MORETON :
BINN, and, MATTHEW PODELL, :
Defendants. :
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AZRACK, United States Magistrate Judge:

The parties in this wage-and-hour action have reached a class-wide settlement. Plaintiffs have filed unopposed motions seeking: (1) final approval of the settlement; (2) certification of settlement classes under Federal Rule of Civil Procedure 23 and § 216(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b); and (3) approval of a service award, administrator fees, and attorneys’ fees and expenses. ECF Nos. 107, 110, 113.

After court-approved notice was sent to the class members, six employees opted out of the settlement. No employees objected to the settlement or the requests for a service award, administrator fees, and attorneys’ fees and expenses.

The parties have consented to me to conduct all proceedings in this case, including entry of final judgment. ECF No. 94.

Based on the papers filed in support of these motions, the parties’ other filings in this action, the settlement conference held on August 14, 2012, ECF No. 91, and the conferences and hearings held on April 5, 2013, ECF No. 100, May 9, 2013, ECF No. 105, and August 8, 2013, ECF No. 116, plaintiffs’ motions are hereby granted:

1. The Court grants final approval of the settlement memorialized in the parties’ Agreement and Release (“Settlement Agreement”), ECF No. 104.

2. The Court certifies the following settlement class under Rule 23:

All spa technicians employed by XpresSpa at LaGuardia Airport (“LGA”), John F. Kennedy (“JFK”) International Airport, and other locations within the state of New York, from July 29, 2004 through May 16, 2013;

The Court finds that this settlement class satisfies the numerosity, commonality, typicality, and adequacy requirements of Rule 23(a) and the predominance and superiority requirements of Rule 23(b)(3). See In re Am. Int’l Group, Inc. Securities Litig., 689 F.3d 229, 240–243 (2d Cir. 2012) (discussing certification in the context of settlement and stating that “[w]hile the predominance

inquiry will sometimes be easier to satisfy in the settlement context, other requirements of Rule 23 ‘designed to protect absentees by blocking unwarranted or overbroad class definitions,’ such as the Rule 23(a)(4) requirement of adequate representation, will ‘demand undiluted, even heightened, attention.’” (quoting Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 620 (1997)). In certifying this class, the Court also: (1) finds that that plaintiffs’ counsel, Lee Litigation Group, PLLC, satisfies Rule 23(a)(4) and Rule 23(g), and appoints Lee Litigation Group, PLLC, as Class Counsel; (2) designates Ulyana Kuznetsov as the Class Representative; and (3) finds that the Notice of Class Action Settlement, ECF No. 104, and Consent to Join & Claim Form, ECF No. 104, and the notice procedures employed in the instant action fully complied with due process and Rule 23(c)(2)(B).

3. The Court certifies a settlement collective action under the FLSA consisting of all spa technicians employed by XpresSpa at LGA and JFK, and other locations within the state of New York, from September 12, 2010 through September 30, 2012.

4. The Court grants a service award of \$10,000 to Class Representative Ulyana Kuznetsov.

5. The Court awards Advanced Litigation Strategies, LLC, administration fees of \$16,000.

6. The Court awards Class Counsel \$5,000 in out-of-pocket expenses.

7. The Court awards Class Counsel \$29,000 in attorneys’ fees.

SO ORDERED.

Dated: November 8, 2013
Brooklyn, New York

/s/
JOAN M. AZRACK
UNITED STATES MAGISTRATE JUDGE